

Minutes of the Members' Code of Conduct Committee
30 January 2020

Present:
Murray Litvak (Chairman)

Councillors:

C. Bateson	V.J. Leighton
J.T.F. Doran	R.W. Sider BEM
R.D. Dunn	R.A. Smith-Ainsley
A.C. Harman	

Apologies: Councillors C.F. Barnard

20/20 Minutes

The minutes of the meeting held on 27 November 2019 were agreed as a correct record.

21/20 Disclosures of Interest

There were none.

22/20 Review of Planning Code

The Committee reviewed the proposed amendments to the Planning Code, which had been discussed at previous meetings in September and November 2019 and subsequently refined. The most significant changes would provide:

1. Clarity on the call-in procedure
2. A more robust decision making process
3. A process for substitutions should these be allowed by the Council.

Members were of the view that all members should be familiar with planning matters and attend training to improve their knowledge and effectiveness as Ward Councillors as well as from a borough perspective.

The Committee noted that a substitutions policy was an item for consideration later on the agenda and that the proposed code would be checked against recently issued Local Government Association (LGA) planning guidance.

Resolved to recommend that Cabinet and Council approve the revised Planning Code subject to:

1. The amendment of the paragraph numbered 47 to state “It is expected that all members of the Council will engage in induction and familiarisation about planning matters and this Planning Code so that as Ward Councillors they can effectively represent residents and promote the interests of the Borough as a whole.”
2. The proposed Planning Code complying with the recently issued LGA planning guidance.

23/20 Substitutions Policy

The Committee considered a report that proposed the introduction of a substitution policy on Committees of the Council, where permitted. A number of changes to Committee membership recently had highlighted the need for a substitution arrangement and the Leader of the Council had requested that this was explored.

The Committee were advised that many Surrey authorities use the substitution process successfully. It allows greater flexibility to members in attending meetings whilst maintaining political proportionality.

Officers outlined the substitution process and how it was envisaged this would operate. Concern was expressed that substitutes may not have received the appropriate training or have the relevant knowledge to fulfil the duties effectively. The Committee were advised that alternative training methods, such as webinars, were being explored to enable members to access training using a variety of methods. Another concern was that substitutions may be made at very short notice.

In view of the fact that, if the substitution policy was approved, the substitutes would be nominated at the Annual Council Meeting for the forthcoming year it was proposed that the arrangement be subject to review by this Committee six months after implementation.

The Committee considered the options available and **resolved** to recommend to Cabinet and Council the introduction of new arrangements introducing substitutes for committee meetings with a review after six months. The Committee further recommended that there should be no limitation in the number of substitutes to allow the same number of substitutes in respect of each political group as that group holds ordinary a Committee (i.e. excluding Cabinet), while still keeping the requirement that to be eligible to substitute a member must have undergone training for those committees and that this should be a constitutional requirement.

24/20 Standards in Public Life - Best Practice Recommendations

The Head of Corporate Governance presented a report outlining results of a review by the Committee on Standards in Public Life. The purpose of the review was to assess the effectiveness of current arrangements to support

and maintain high standards of conduct and ethical practice in local government and make recommendations for improvement where necessary.

The Committee noted that the Council already has some of the best practice recommendations in place, and considered the proposals put forward in Appendix 1 to the report.

Resolved to recommend to Cabinet the best practice recommendations as set out below

Best Practice Advice	Current Arrangements	Response agreed by Members' Code of Conduct Committee
<p>Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.</p>	<p>Code of Conduct No. 9. prescribes that:</p> <p>You must treat others with respect. This means treating people fairly and equitably and with courtesy, compassion and sensitivity. You should treat other people equally as you yourself would expect to be treated. You must never use behaviour which a reasonable person would consider as offensive, overbearing, intimidating, malicious, insulting or humiliating.</p>	<p>Inclusion of more specific reference to bullying and harassment including definitions and examples of behaviour within those definitions.</p>
<p>Best practice 2 Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.</p>	<p>Code of Conduct No. 13 prescribes that:</p> <p>“If a complaint is made under this Code of Conduct then you must not interfere with the administration or investigation of the complaint and you must not intimidate any complainant, witness or likely witness or engage with them in any way which undermines the investigation.”</p> <p>There is no requirement in either the Code of Conduct or the adopted</p>	<p>The Committee agreed with the recommendation but considered that an investigation should be conducted within the shortest possible timescale, notwithstanding that the matter should be properly investigated. It was agreed that 'trivial' is covered by the term 'frivolous'</p>

	<p>Arrangements for dealing with allegations of misconduct, to comply with any standards investigation.</p> <p>Paragraph 25 of the Arrangements provide for “the Monitoring Officer to reject complaints which are vexatious, frivolous or malicious or which are politically motivated or in some other way an abuse of process.” There is no reference at all to ‘trivial allegations’.</p>	
<p>Best practice 3 Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.</p>	<p>The Code of Conduct was last reviewed in April 2016.</p>	<p>The Committee agreed that a review should be arranged</p>
<p>Best practice 4: An authority’s code should be readily accessible to both councillors and the public, in a prominent position on a council’s website and available in council premises.</p>	<p>The Code of Conduct is available for viewing on the Council’s website:</p> <p>It is also available on request at the Council offices.</p>	<p>No changes were considered necessary.</p>
<p>Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in</p>	<p>Proposals to publish monthly register were agreed at Council on 21/2/19 and this has been implemented from August 2019.</p>	<p>No changes were considered necessary.</p>

<p>an accessible format, such as CSV.</p>		
<p>Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	<p>Clear and straightforward Arrangements process is published on the website (the same link above) to explain how allegations are dealt with.</p> <p>Allegations are filtered by Monitoring Officer in consultation with the Independent Person for those that are vexatious, frivolous or malicious or politically motivated, that can be resolved informally, that relate to a service, policy or Council decision.</p> <p>A public interest test is not explicitly stated in our Arrangements.</p>	<p>Agreed to review the assessment criteria to see whether it should include a more specific reference to a public interest test.</p>
<p>Best practice 7: Local authorities should have access to at least two Independent Persons.</p>	<p>We have access to a Panel of 7 shared Independent Persons across Surrey Authorities.</p>	<p>Agreed that no change was necessary.</p>
<p>Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.</p>	<p>This is included in the Council's Arrangements. The Independent Person is consulted on both formal investigations and all allegations the Monitoring Officer is minded to dismiss.</p>	<p>Agreed that no change was necessary.</p>

<p>Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied</p>	<p>A decision notice is currently prepared as soon as reasonably practicable and sent to all parties. It is made available on the Council's website if required by the Hearings Panel. Our decision notices include all areas identified by best practice.</p>	<p>Agreed that no change was necessary.</p>
<p>Best practice 10 A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.</p>	<p>Guidance on how to make a complaint, including the process for handling complaints is available for viewing on the Council's website:</p>	<p>Agreed that no change was necessary.</p>
<p>Best practices 11 and 12</p>	<p>Not applicable</p>	<p>Not applicable</p>
<p>Best practice 13</p>	<p>Our current arrangements</p>	<p>Agreed that no change was</p>

<p>A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.</p>	<p>provide that:</p> <p>a) in circumstances where the Monitoring Officer may have a conflict of interests, then the Deputy Monitoring Officer will undertake functions of the Monitoring Officer as set out in these arrangements.</p> <p>b) If a complaint merits formal investigation, the Monitoring Officer will appoint an Investigating Officer in consultation with Chairman, who may be another senior officer of the Council, an officer of another Council or an external investigator</p>	<p>necessary.</p>
<p>Best practice 14 Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.</p>	<p>No provision made.</p>	<p>It was agreed that there was sometimes confusion amongst the public regarding the relationship between the Council and Knowle Green Estates Ltd (KGE) and there was a need to be transparent. Work was currently being carried out to improve this area including the building of a KGE website. KGE/Cabinet to consider this as part of next stage.</p>
<p>Best practice 15 Senior officers should meet</p>	<p>Whilst the Chief Executive meets regularly with group leaders, meetings are not</p>	<p>The current arrangements were considered sufficient</p>

regularly with political group leaders or group whips to discuss standards issues	exclusively about standards issues	
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25/20 Exclusion of the Press and Public

The Panel considered whether the press and public should be excluded from the meeting during consideration of the following matter on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act.

The Panel in making its decision had regard to all circumstances and was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

Resolved that in the interest of having a frank and open discussion about the matter, the press and public are excluded from the meeting.

26/20 Member Conduct

The Committee agreed that Karen Limmer, Interim Monitoring Officer, should respond to the letter received from solicitors acting on behalf of three councillors.

It was further agreed that the informal process should end and formal action be taken.